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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,217	04/09/2002	Alexandra Jacobs-Hartwig	1999/G015	5855

7470 7590 10/28/2003

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER

WILSON, DONALD R

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 10/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/030,217

Applicant(s)

JACOBS-HARTWIG ET AL.

Examiner

Donald R Wilson

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION**Response to Restriction Requirement**

1. Applicant's election with traverse of the inventions of Group I, Claims 1-2, in Paper No. 11 is acknowledged. The traversal is on the ground(s) that unity of invention is determined not only by PCT Rules 13.1 and 13.2, but also by 37 C.F.R. § 1.475(b)(3) which provides that a national stage application will be considered to have unity of invention when the claims are drawn to a product, a process for manufacture of said product, and the use of said product. This is not deemed to be persuasive because it is not seen that 37 C.F.R. § 1.475(b)(3) overcomes PCT Rules 13.1 and 13.2. Further, the requirements of PCT Rules 13.1 and 13.2 are also stated in 37 C.F.R. § 1.475(a), and it is not seen that unity of invention is provided for by 1.475(b) if the requirements of 1.475(a) are not met.
2. The requirement is still deemed proper and is therefore made FINAL. Claims 3-4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention.

Claim Rejections - 35 USC § 112, Second Paragraph

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. **Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**
5. The language of Claim 1 is indefinite because the metes and bounds of what fiber size is included or excluded in the term "microfiber" cannot be determined.
6. Claim 2 is indefinite because of the language "such as" in defining the substituents R¹ through R¹², which renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
7. Claim 2 is further indefinite because of the language "or form a saturated, unsaturated or aromatic ring" in the definition of R¹ through R⁸. As the specified groups already contain cyclic and aromatic groups the meaning becomes unclear.

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Objection to Claim

8. Claim 2 is objected to because of the following informalities: Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. (See 37 U.S.C. § 1.75 (i).)

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by JP'260.**
11. JP'260 discloses microfiber nonwovens, i.e., webs, prepared by the melt blown method and which contain at least one polycycloolefin polymer (abstract. paragraphs 0121 to 0130). Exemplary polycycloolefins are shown in paragraphs 0026 to 0049.
12. **Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by WO'010, Brookhart or Shawver'921.**
13. WO'010, Brookhart and Shawver'921 each disclose melt-blown nonwovens of polycyclopentene resins (WO'010, p. 116, lines 16-23, Brookhart, col. 64, lines 38-51, and Shawver'921, col. 8, lines 4-16, col. 9, lines 52-57 and col. 11, lines 56-65).

Art of Interest/Technological Background

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The teachings of Estey, Shawver'252, Schultz, McDowall and Thomas each disclose melt-blown webs of cycloolefin polymers and could each be used in a rejection of Claim 1. However, the teachings are considered to be cumulative to the applied references.

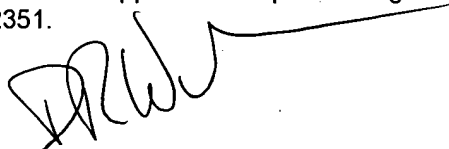
Future Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald R Wilson whose telephone number is 703-308-2398.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 703-308-2450. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. The unofficial direct fax phone number to the Examiner's desk is 703-872-9029.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-2351.

A handwritten signature in black ink, appearing to read 'DRW', with a long horizontal line extending to the right.

Donald R Wilson
Primary Examiner
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